

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

UNITED STATES OF AMERICA

V.

JODY PAXTON

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5:00-CR-9(5)

**REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE**

On October 19, 2006, the Court held a hearing on the Government's Petition to Revoke Supervised Release. The Government was represented by Assistant United States Attorney Barry Bryant. Defendant was represented by John Stroud.

Jody Paxton was sentenced on March 2, 2001, before The Honorable David Folsom of the Eastern District of Texas after pleading guilty to the offense of distribution of cocaine base, a Class B felony. This offense carried a statutory maximum imprisonment term of 40 years. The guideline imprisonment range, based on a total offense level of 23 and a criminal history category of II, was 60 to 63 months. Jody Paxton was subsequently sentenced to 60 months imprisonment followed by 4 years of supervised release subject to the standard conditions of release, plus special conditions to include drug aftercare, denial of federal benefits for one year, and a \$100 special assessment. On December 3, 2003, Jody Paxton completed his period of imprisonment and began service of the supervision term. On December 22, 2004, the Court modified the terms of supervision to include alcohol abstinence.

On June 5, 2006, the instant petition to revoke was filed. In its petition, the Government alleges Defendant violated the following conditions:

1) Defendant shall not commit another federal, state, or local crime. Specifically, the Government alleges as follows. On or about February 24, 2005, in Bowie County, Texas, Mr. Paxton assaulted Jacqueline Evett Larry by striking her deliberately in the head and other parts of her body with a closed fist and the blunt end of a knife. Mr. Paxton was arrested by the Texarkana Police Department on this date for said offense and was subsequently released on a personal recognizance bond. On April 28, 2006, Mr. Paxton entered a plea of guilty and was sentenced to 180 days in jail under Bowie County Court at Law Cause No. 05M0534-CCL. Mr. Paxton also violated this condition on March 28, 2006, by being arrested for resisting arrest by the Texarkana, Texas, Police Department. On April 28, 2006, Mr. Paxton entered a plea of guilty and was sentenced to 30 days in jail under Bowie County Court at Law Cause No. 06M0787-CCL. Also on March 28, 2006, Mr. Paxton violated this condition by being arrested for failure to identify himself to law enforcement officers by the Texarkana, Texas, Police Department. On April 28, 2006, Mr. Paxton entered a plea of guilty and was sentenced to 30 days in jail under Bowie County Court at Law Cause No. 06M0788-CCL.

2) Defendant shall not commit another federal, state, or local crime. Defendant shall refrain from excessive use of alcohol. Specifically, the Government alleges as follows. On November 20, 2004, Mr. Paxton was arrested by the Texarkana Police Department for driving while intoxicated. On December 13, 2004, Mr. Paxton pled guilty to said offense and was sentenced to 18 months probation in the County Court of Law in Bowie County, Texas, under cause no. 04M-2220-CCL.

3) Defendant shall truthfully answer all inquiries by the probation officer and follow the instructions of the probation officer. Specifically, the Government alleges as follows. On December 3, 2004, Mr. Paxton was instructed to abstain from the use of alcohol by the U.S. Probation Officer.

Additionally, Mr. Paxton signed a Probation Form 49 agreeing to have included as part of his conditions of supervision that he abstain from the use of alcohol. On December 9, 2004, an unscheduled home visit was conducted at Mr. Paxton's residence. It was apparent that Mr. Paxton was intoxicated by the observation of his slurred speech and his inability to verbalize a rational thought. Upon inquiring into his state, Mr. Paxton admitted to drinking three to four 12 ounce beers on this date.

4) Defendant shall abstain from the use of alcohol. Specifically, the Government alleges as follows. On February 4, 2005, Mr. Paxton reported to his substance abuse counseling session and appeared to be intoxicated. The counselor took a urine specimen from Mr. Paxton and submitted it for testing. Mr. Paxton tested positive for the use of alcohol on said date.

The Court scheduled a revocation hearing October 19, 2006. At the hearing on the Government's petition and after consenting to the undersigned's taking the plea, Defendant pled true to allegations as set forth above.¹ Based upon Defendant's plea of true to the allegations and with no objection by the Defendant or the Government, the Court found Defendant violated his conditions of supervised release as alleged in the U.S. Probation Office's violation petition. The Court further recommended that the term of supervised release be revoked.

The Court thereafter recommended Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of fifteen (15) months to run consecutive to the sentences received in Bowie County Court at Law Cause Nos. 04M2220-CCL and 05M0543-CCL, with no supervised release to follow the term of imprisonment. The Court further recommended that the

¹ Defendant admitted the assault as alleged in the first allegation, but he denied that a knife was involved in said assault.

Court request the Bureau of Prisons designate FCI Texarkana for service of sentence; that the defendant obtain his GED or vocational training while incarcerated; and that the defendant be provided drug and alcohol abuse counseling while incarcerated. Based on the foregoing, it is

RECOMMENDED that Defendant's plea of true to the allegations as set forth in the Government's petition be **ACCEPTED**. Further, it is

RECOMMENDED that Defendant's supervised release be **REVOKED**. Further, it is

RECOMMENDED that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of fifteen (15) months to run consecutive to the sentences received in Bowie County Court at Law Cause Nos. 04M2220-CCL and 05M0543-CCL, with no supervised release to follow the term of imprisonment. It is further

RECOMMENDED that the Court request the Bureau of Prisons designate FCI Texarkana for service of sentence; that the defendant obtain his GED or vocational training while incarcerated; and that the defendant be provided drug and alcohol abuse counseling while incarcerated.

The parties were informed of the right to file objections to the recommendations as set forth above. Both parties waived their objections.

SIGNED this 20th day of October, 2006.


CAROLINE M. CRAVEN
UNITED STATES MAGISTRATE JUDGE